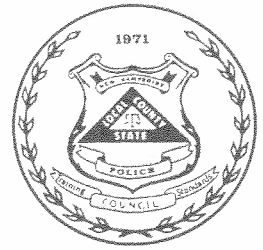




Sheriff Michael L. Prozzo, Jr.
Chairman

State of New Hampshire
POLICE STANDARDS & TRAINING COUNCIL
ARTHUR D. KEHAS
LAW ENFORCEMENT TRAINING FACILITY & CAMPUS
17 Institute Drive — Concord, N.H. 03301-7413
603-271-2133 FAX 603-271-1785
TDD Access: Relay NH 1-800-735-2964



Donald L. Vittum
Director

Approved Minutes

September 28, 2010

Call to Order

The 399th meeting of the New Hampshire Police Standards and Training Council was called to order at 9:07 a.m. by Chairman Michael L. Prozzo, Jr., Sheriff of Sullivan County, at the John O. Morton conference room at Police Standards and Training in Concord, New Hampshire.

Members Present: Michael L. Prozzo, Jr., Sheriff of Sullivan County; William L. Wrenn Jr., Commissioner, New Hampshire Department of Corrections; Chief James Sullivan, Hampton Police Department; Associate Justice Stephen H. Roberts, Dover District Court; Chief Peter Morency, Berlin Police Department; Associate Justice Norman E. Champagne, Manchester District Court; Colonel Robert Quinn, New Hampshire State Police; Chief Anthony Colarusso, Dover Police Department; Chief Gregory C. Dodge, Epping Police Department; Charles Annal, designate of Chancellor Richard Gustafson, Community College System of New Hampshire; and, Attorney General Michael Delaney

Members Absent: Richard Foote, Sheriff of Cheshire County

Staff Present: Director Donald Vittum, Lieutenant Mark Bodanza, Captain Benjamin Jean, Captain Mark Varney, Captain Thomas McCabe, Captain Kimberly Roberts, Investigative Paralegal Anne Paquin, and Council Secretary Kathryn Day

Others Present: Middleton Chief of Police Randy Sobel; Attorney Peter Callaghan; Belknap County Sheriff Craig Wiggin; Tilton Chief of Police Robert Cormier; Lieutenant Christopher Aucoin and Sergeant Kevin Duffy, New Hampshire State Police; Captain Ron Dickerson, Nashua Police Department; Henniker Chief of Police Ryan Murdough; Superintendent R. N. Van Wiekler, Cheshire County Department of Corrections; and, Director David Barrett, New Hampshire Marine Patrol.

Approval of Minutes

Chairman Prozzo noted that approval of the July 27, 2010, minutes had been delayed due to an insufficient quorum on August 24, 2010. Chief Dodge, with a second by Justice Champagne moved for the Council to approve the minutes of the July 27, 2010, meeting. The voice vote of those present on July 27 was unanimous, 8-0, with Chief Morency, Chairman Prozzo, and Chief Sullivan abstaining.

Chief Dodge moved approval of the minutes of August 24, 2010; following a second by Attorney General Delaney, the voice vote of the Council was unanimous, 9-0; Justice Roberts and Colonel Quinn abstained because they did not attend this meeting.

Director's Report

Director Vittum's monthly report was distributed at the meeting. The Director had no further comments to add and the Council members raised no questions on the report.

RECESS

The meeting was in recess from 9:09 a.m. to 9:16 a.m. for the Council to receive legal advice regarding deliberations following hearings in nonpublic session and from 10:10 a.m. until 10:16 a.m. for a brief break period.

Previous and/or Unfinished Business

NONPUBLIC SESSION: Chief Randy Sobel, Middleton Police Department

On August 24, 2010, the Council agreed to postpone action on Chief Sobel's certification and Acting Chairman Wrenn appointed Attorney General Delaney and Justice Champagne to make a recommendation regarding the Council's response to Chief Sobel's Request for Findings of Fact and Rulings of Law.

On September 28, 2010, Chief Sobel appeared with his attorney, Peter Callaghan.

Chairman Prozzo advised that he would recuse himself from this matter and he appointed Vice Chairman Wrenn to preside over the nonpublic session. Justice Roberts and Colonel Quinn were not present for the original hearing and recused.

Attorney General Delaney moved for the Council to enter into a nonpublic session to discuss personnel matters, as provided in RSA 91-A:3, II (a). Following a second by Chief Morency, the motion carried on a roll call vote of 8-0. The nonpublic session commenced at 9:19 a.m.

Chief Morency moved that the minutes of the nonpublic session be sealed. Following a second by Chief Colarusso, the Council voiced their unanimous agreement.

Chief Morency, with a second by Chief Dodge, moved that the Council exit the nonpublic session. The roll call vote of the Council was in favor, 8-0. The nonpublic session concluded at 9:40 a.m.

Upon return to public session, Acting Chairman Wrenn advised Chief Sobel that the Council was not prepared to respond the Chief Sobel's Request for Findings of Fact and Rulings of Law at this time and would respond only if Chief Sobel was not willing to withdraw the request. Acting Chairman Wrenn explained that, in their deliberations on this matter, the Council recommended that Chief Sobel make improvements to the way records are managed within his Department, especially in receiving documentation from officers that verifies they have completed their annual training requirements.

Attorney General Delaney put forth the following motion:

MOVED: That the Council finds no willful violation of Council Rules in connection with the submission of false or misleading paperwork that would warrant a suspension of Chief Sobel's certification; and, that the Council does find that there has been a violation of Council Rules requiring the submission of complete and accurate paperwork to the Council; and, further, that the Council will require that Chief Sobel submit a detailed plan to the Director outlining improvements and strengthened controls and security for the personnel paperwork at issue in his Department, and the Council will instruct the Director to implement a more vigorous auditing program for the Middleton Police Department in future years.

Justice Champagne seconded the motion. Hearing no discussion, Acting Chairman Wrenn called for a voice vote of the Council, and it was unanimous, 8-0; Chairman Prozzo, Justice Roberts, and Colonel Quinn abstaining.

Attorney Callaghan requested that this action be communicated in a letter and Acting Chairman Wrenn agreed to provide this documentation.

NONPUBLIC SESSION: New Hampshire Marine Patrol

(A hearing continued from July 27, 2010, regarding the eligibility of Officer Timothy Hanchuruck for full-time certification).

The Council had delayed action on this matter since July 27, 2010, so that Director Barrett could provide more information regarding the definition of “juvenile” under Connecticut statutes in the year that Officer Hanchuruck was 17 years old and a Connecticut resident. On September 28, 2010, Director Barrett appeared to present the requested information (**ADDENDUM #3**).

Chairman Prozzo advised that it would be proper for the Council to resume the hearing in nonpublic session and advised that he would recuse himself from the matter. Vice Chairman Wrenn was appointed to chair the ongoing hearing.

A motion by Justice Roberts, seconded by Chief Dodge, for the Council to enter into a nonpublic session to discuss personnel matters, as provided in RSA 91-A:3, II (a), received the unanimous support of the Council, excluding Chief Morency, Chief Sullivan, Dr. Annal, and Chairman Prozzo, who were not present on the initial hearing date. The nonpublic session commenced at 9:48 a.m.

Justice Roberts moved that the minutes of the nonpublic session be sealed. Following a second by Chief Dodge, the Council voted 7-0 in favor (Chief Morency, Chief Sullivan, Dr. Annal, and Chairman Prozzo abstaining).

Justice Roberts moved further that the Council exit the nonpublic session. The motion was seconded by Chief Dodge and approved by the Council, 7-0, (Chief Morency, Chief Sullivan, Dr. Annal, and Chairman Prozzo abstaining).

In the course of the nonpublic session, the Council reached the following conclusions:

- Under Council Rule Pol 301.05 (g) (8), Officer Hanchuruck is not eligible to be granted New Hampshire law enforcement certification.
- At the time of the conduct at issue, Officer Hanchuruck was not considered a “juvenile” under the laws of the state where the conduct occurred.
- Further revisions are needed to Pol 301.05, for example, changes that further define what constitutes a “sale” and that eliminate certain conduct from being a lifetime bar from becoming certified.
- No Council action is required at this time.

Ultimately, Director Barrett withdrew his request for the Council to determine Officer Hanchuruck’s eligibility to be granted certification at this time.

PUBLIC HEARING: Rule Change: Pol 402.02

Chairman Prozzo opened a noticed hearing to receive comments from the public on the proposed Rule Change approved by JLCAR.

The recommended change to Pol 402.02, effective 8-1-08 (Doc #9224) reads as follows:

Pol 402.02 Revocation or Suspension.

(a) The council shall, unless it has just cause to do otherwise as provided in (e) below, order the suspension or revocation of the certification of any police or corrections officer for any of the following reasons:

- (1) The certification was obtained by fraudulent or illegal means;

(2) The officer has been convicted either prior to or after certification of a crime which constitutes a felony in this or any other state, territory, province or country;

(3) The officer has been convicted either prior to or after certification of a misdemeanor for which there was a sentence of incarceration, regardless of whether all or part of the sentence was suspended;

(4) The officer has been convicted either prior to or after certification of a crime of moral turpitude or of a crime which tends to bring discredit on the police or corrections service, including but not limited to:

- a. Theft;
- b. Assault;
- c. DWI;
- d. Criminal threatening;
- e. Reckless conduct;
- f. Corrupt practices;
- g. Falsification of documents or evidence;
- h. Fraud;
- i. Sexual assault;
- j. Public indecency;
- k. Stalking or criminal violation of a protective order;
- l. Reckless driving; or
- m. Disobeying an officer;

(5) The officer's discharge has become final or he or she has been allowed to resign in lieu of discharge from police or corrections employment in this or any other state, country, or territory for reasons of a lack of moral character as defined in Pol 101.28 or Pol 402.02 (k) or moral turpitude as defined in Pol 101.29 or for acts or omissions of conduct which would cause a reasonable person to have doubts about the individual's honesty, fairness, and respect for the rights of others and for the laws of the state or nation.

(6) The officer has, after being hired as a police, corrections or probation/parole officer:

- a. Used marijuana;
- b. Illegally used or possessed any other controlled substance; or
- c. Illegally purchased, sold, cultivated, transported, manufactured, or distributed a controlled drug or an imitation controlled drug.

(7) The officer is unable to continue as an active duty police, corrections or probation/parole officer for a period of 45 days or more by reason of a severe level mental disorder as diagnosed by a psychologist or psychiatrist who uses mental status examinations and standardized psychological tests normed for police or corrections officers;

(8) A ~~chief~~ law enforcement officer has willfully:

- a. violated council rules relative to himself or herself or the officers working under his/her control; or
- b. submitted false or forged documents; or
- c. misrepresented a document or testimony before the council;

There were no verbal comments presented during the public hearing. Chairman Prozzo announced that written comments will be accepted through October 8, 2010, and closed the public hearing. At their next meeting following the public comment period, the Council will act on final adoption of the revised Rule.

SWAT/SOU Subcommittee Preliminary Recommendations (ADDENDUM #2)

Members appointed to the subcommittee to formulate recommendations to the Council on recommended policies for SWAT/SOUs appeared before the Council to present their preliminary recommendations. In attendance: Belknap County Sheriff Craig Wiggin; Tilton Chief of Police Robert Cormier; Lieutenant Christopher Aucoin and Sergeant Kevin Duffy, New Hampshire State Police; and, Captain Ron Dickerson, Nashua Police Department.

Lieutenant Bodanza stipulated that on August 25, 2009, the Council passed a motion following the presentation of conclusions of a study conducted by the National Tactical Officers Association:

That the Council, consistent with the recommendations of the study, authorize the Director to work in collaboration with the chief law enforcement officers of the state, police chiefs, sheriffs, and tactical teams and their leaders to develop and propose model policies and procedures for consideration by the Police Standards and Training Council.

Sheriff Wiggin described the documents presented as a “work in progress” and asked for the Council to indicate whether the framework presented meets with the Council’s approval.

The Council agreed that the subcommittee should continue its work and develop a more specific and comprehensive final report on recommended best practices and model policies that the Council will consider and possibly endorse. Sheriff Wiggin estimated that more information could be presented in a few months.

Director Vittum clarified that the subcommittee’s report is intended to provide only guidance to New Hampshire law enforcement agencies by establishing recommended best practices.

Justice Roberts asked if the Local Government Center was involved and if Commissioner Wrenn could clarify the role of the Council. Commissioner Wrenn said that once the subcommittee completed their report, the Council would consider whether or not to support it. Lieutenant Bodanza further stated that any model policies or procedures considered and recommended by the Council will not constitute regulations or requirements imposed upon New Hampshire law enforcement agencies, only that the Council endorses such policies and procedures as being sound (as stated on August 25, 2009, by Deputy Attorney Bud Fitch).

In response to Justice Roberts’ first question, Sheriff Wiggin stated that the subcommittee had worked with representatives of the LGC to produce their preliminary report.

New Business

CONSENT CALENDAR

The Council considered staff recommendations for items presented on the Consent Calendar. Chairman Prozzo advised that one request for an extension submitted by Officer Phillip Blanchard of Haverhill Police Department has been withdrawn from consideration.

Based on staff recommendations, Chief Dodge moved that the Council approve and adopt the Consent Calendar as amended. Following a second by Chief Sullivan, the voice vote of the Council was 11-0.

APPROVED CONSENT CALENDAR (AS AMENDED)

Requests for Extensions

Note: Extensions granted until fitness testing for requested Academy, and, if testing is successful, through the end of the requested Academy.

Full-Time Police Officer

154th Academy 01/03/11 – 04/08/11 (fitness test 12/20/10)

155th Academy 04/25/11 – 07/29/11 (fitness test 04/11/11)

Officer Christopher R. Buker, Sunapee Police Department

(DOH: 07/01/10 **Part-time certified**) Extension granted through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Academy.

Officer Sean R. Dolliver, University of NH Police Department

(DOH: 05/17/10 **Full-time certification lapsed**) Extension granted through the date of the entrance fitness test on December 20, 2010, and reinstatement of certification upon successful completion of the entrance fitness test.

Officer William M. Goulet, Meredith Police Department

(DOH: 05/17/10 **Part-time certified**) Extension granted through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Academy.

Officer Denis A. Messier, Somersworth Police Department

(DOH: 05/24/10 **Not part-time certified**)) Extension granted through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Academy, with the stipulation that Officer Messier continue working only in the direct presence of a certified officer.

Officer Joshua S. Waller, Kingston Police Department

(DOH: 06/21/10 **Not part-time certified**)) Extension granted through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Academy, with the stipulation that Officer Waller continue working only in the direct presence of a certified officer.

Part-Time Police Officer

259th Academy 02/05/11 – 05/06/11 (fitness test 01/22/11)

Officer Daniel T. Duffy, Strafford Police Department

(DOH: 02/17/10) Extension granted through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259th Academy, with the stipulation that Officer Duffy continue working only in the direct presence of a certified officer.

Officer Adam A. Painchaud, Alton Police Department

(DOH: 04/05/10) Extension granted through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259th Academy, with the stipulation that Officer Painchaud continue working only in the direct presence of a certified officer.

Officer Mark J. Smigielski, Chester Police Department

(DOH: 06/16/10) Extension granted through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259th Academy, with the stipulation that Officer Smigielski continue working only in the direct presence of a certified officer.

Requests for Specialized Training Grant Funds

Concord Police Department will be granted funds for Sergeant John Thomas to attend the Internal Affairs Investigation Course conducted by Roger Williams University and the New England Association of Chiefs of Police in Portsmouth, Rhode Island, for five days beginning September 27, 2010. **Amount: \$925.50**

Concord Police Department will be granted funds for Lieutenant John F. Brown to attend the Recruitment and Selection of Law Enforcement Officers seminar presented by the Thomas and Means Law Firm LLP, in Abington, Pennsylvania, for three days, beginning November 14, 2010. **Amount: \$371.64**

Concord Police Department will be granted funds for Sergeant Michael Pearl to attend the FTO Program Coordinator training program sponsored by Roger Williams University and the New England Association of Chiefs of Police in Portsmouth, Rhode Island, for four days beginning November 16, 2010. **Amount \$547.81**

Hollis Police Department will be granted funds for Lieutenant James Sartell to attend the Command Training Series: Executive Development Course at Roger Williams University in Portsmouth, Rhode Island, for two three-day sessions beginning on October 12 and November 16, 2010. **Amount: \$1,000.00**

Hollis Police Department will be granted funds for Sergeant Richard Mello to attend the Command Training Series: Mid-Management Course at Roger Williams University in Portsmouth, Rhode Island, for two weeks beginning November 29, 2010. **Amount: \$1,000.00**

Hooksett Police Department will be granted funds for Sergeant Michael Lebreque to attend the Command Training Series: Mid-Management Course at Roger Williams University in Portsmouth, Rhode Island, for two weeks beginning February 28, 2011. **Amount: \$1,000.00**

Keene Police Department will be granted funds for Lieutenant Steven Stewart to attend the Command Training Series: Mid-Management Course at Roger Williams University in Portsmouth, Rhode Island, for two weeks beginning November 29, 2010. **Amount: \$1,000.00**

New Hampshire State Police will be granted funds for TFC Brian R. Strong to attend the National Forensic Academy sponsored by the DOJ Bureau of Justice Assistance at the University of Tennessee, Oak Ridge, Tennessee, for 400 hours from January 10 through March 18, 2011. **Amount: \$1,000.00**

Portsmouth Police Department will be granted funds for Sergeant John Peracchi and Sergeant Thomas Grella to attend the Command Training Series: First-Line Supervisor course at Roger Williams University in Portsmouth, Rhode Island, for two weeks beginning January 24, 2011. **Amount: \$2,000.00 for two officers**

Windham Police Department will be granted funds for Officer Jessica Flynn to attend the Law Enforcement Fitness Specialist course at the Cooper Institute in Dallas, Texas, for five days beginning December 5, 2010. **Amount: \$1,000.00**

(END APPROVED CONSENT CALENDAR)

Other New Business

Other Request for Extension

Officer Luke B. Bowley, Henniker Police Department

Chief Ryan Murdough appeared to address the Council and asked them to consider granting an extension for Officer Luke B. Bowley to attend the 259th Part-Time Police Officer Academy. Staff presented no recommendation on this request, but advised the Council that Officer Bowley had not yet completed the required pre-service training.

Officer Bowley was hired in June 2010 and participated in the entrance fitness test for the 258th Academy but was not successful in passing. Chief Murdough acknowledged that he stated in the Request for Extension submitted to the Council that Officer Bowley has not met the basic requirements set out in Pol 302.03, namely basic firearms safety and familiarization, handcuffing, etc. Chief Murdough indicated that Officer Bowley has since completed the firearms requirement; presently, Officer Bowley has not completed the handcuffing training and will not drive an emergency vehicle or police cruiser until he has completed the Academy. Chief Murdough's letter documenting these circumstances was distributed to the Council (ADDENDUM #1).

The consensus of the Council was that the pre-service training required by Pol 302.03 was essential and that exceptions should not be permitted. Chief Sullivan moved that the Council deny Officer Bowley's request for an extension based on his failure to meet the pre-service training requirements set out in Pol 302.03. Following a second by Chief Morency, the voice vote of the Council was 11-0 in favor.

Chief Murdough asked if Officer Bowley may reapply before the six-month period following his hire date elapses if the pre-service training requirements are met and Chairman Prozzo indicated that such a request would be considered.

Request for Council Approval

New Hampshire County Correctional Officers Academy (ADDENDUM #4)

The New Hampshire County Correctional Superintendents' Affiliate requests the Council's formal approval of additional classes and increasing the NH County Correctional Officers Academy from four weeks to five weeks (from 160 hours to 200 hours). Superintendent R. N. Van Wiekler, Cheshire County Department of Corrections was present at the meeting to elaborate. Pursuant to RSA 100-A, this action requires the approval of the Police Standards and Training Council.

Superintendent Wiekler explained that the additional classes are needed for his agency to comply with national standards and the change has the support of all ten County Correctional Superintendents. He presented a summary of all of the changes that would be implemented in the expanded curriculum. He also commented that all ten Counties require the completion of 30 hours of in-service training annually to maintain certification.

Justice Champagne, with a second by Chief Morency, moved for the Council to approve the NH County Corrections' request to expand their Academy from four weeks to five weeks to accommodate the additional classes needed to comply with national standards.

The Council approved the motion to grant approval for additional classes and increasing the NH County Correctional Officers Academy from four weeks to five weeks (from 160 hours to 200 hours) in a unanimous voice vote, 11-0.

Law Enforcement Training in New Hampshire DOT Work Zones

Captain Mark Varney presented a comprehensive lesson plan and PowerPoint slides illustrating the content of a train-the-trainer program for Council approval. Captain Varney stated that the proposed officer presence training materials have been reviewed and approved by the New Hampshire Department of Transportation with minor changes. Other elements of the program having to do with supplies for flagging and slow/stop-paddle training need to be finalized before the program is ready to go forward. The Department of Labor has no input, other than enforcing compliance with the requirement for the proper equipment to perform flagging and slow/stop-paddle activities.

Chief Morency, with a second by Chief Colarusso, moved for the Council to approve the staff's request to implement the Law Enforcement Training in New Hampshire DOT Work Zones training program as presented. The motion was supported unanimously by the Council, 11-0.

Other Business

No issues raised.

General (Discussion)

Cooper Fitness Norms

Director Vittum advised the Council that the Cooper Institute had updated their normative data in August 2009. The staff provided a detailed memo outlining the changes and asked the Council to review this information with the intent of approving the new norms for implementation in the New Hampshire Police Academies beginning January 1, 2011. Further discussion is planned for the Council's next meeting on October 26, 2010.

Quorum for October 26, 2010, Council Meeting

Chief Morency noted that members of the Council will be participating in an IACP event on the date of the next Council meeting. Chairman Prozzo asked the members to confirm their attendance on October 26, 2010. Sheriff Prozzo, Attorney General Delaney, Colonel Quinn, Commissioner Wrenn, Dr. Annal, Justice Champagne, Justice Roberts, and Chief Colarusso indicated that they would attend.

Next Meeting/Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on Tuesday October 26, 2010, at nine o'clock in the morning, at 17 Institute Drive in Concord, New Hampshire.

Upon a motion by Chief Dodge, seconded by Chief Morency, the Council voted unanimously to adjourn the meeting at 10:55 a.m.

Respectfully submitted,


Chairman Michael L. Prozzo, Jr.